

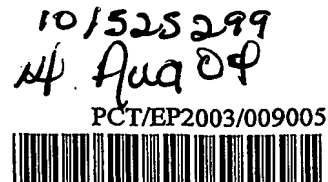
Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70).



Applicant's or agent's file reference 30851P WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/009005	International filing date (day/month/year) 13 August 2003 (13.08.2003)	Priority date (day/month/year) 14 August 2002 (14.08.2002)
International Patent Classification (IPC) or national classification and IPC C08F 293/00		
Applicant DEGUSSA CONSTRUCTION CHEMICALS GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.  <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <u>6</u> sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 23 January 2004 (23.01.2004)	Date of completion of this report 22 November 2004 (22.11.2004)
Name and mailing address of the IPEA/EP  Facsimile No.	Authorized officer  Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/009005

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages \_\_\_\_\_ 1-19 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_ 1-19 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 23 January 2004 (23.01.2004)
- ☐ the drawings:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/EP 03/09005

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*

1. This report has been established for claims 1-19  
(with the letter of 23 January 2004).

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/09005

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims		YES
	Claims	1-19 NO	NO
Inventive step (IS)	Claims		YES
	Claims	1-19 NO	NO
Industrial applicability (IA)	Claims	1-19 YES	YES
	Claims		NO

### 2. Citations and explanations

1. This report makes reference to the following documents (D) cited in the search report; the same numbering will be used throughout the procedure:

D1 US5484851  
D2 EP0979844  
D3 US6248839  
D4 EP0870781.

2. D1 discloses the use of the block copolymers as dispersion agents and/or flow agents for aqueous solid suspensions as defined in claim 1. It should be noted that claim 1 is only a use claim for the use of block copolymers per se as dispersion agents and/or flow agents for aqueous solid suspensions.

Upon consultation with the Examination Section, claim 1 cannot be regarded as a dispersion or suspension composition product claim, or as a claim to the use of a dispersion composition for suspensions. Consequently, the component compounds in a suspension composition product, for example anhydrite, calcium, etc. are not the controversial issue at hand. This situation is similar to that described in the EPO Guidelines, Part C, paragraph III-4.7b "A claim defining a product in terms of a process

is to be construed as a claim to the product as such..."

3. In the context of point 2:

The disclosures in D1 (column 2, lines 1-24; claim 1; column 1, lines 45-50 and 35-40; column 2, line 61 to column 3, line 27; column 3, lines 41-61; column 4, lines 14-33; claims 2-6, examples) show that the subject matter of claims 1-19 does not appear to be novel.

The disclosures in D2 (claims 1, 4, and 2-9; page 4, line 1 to page 6, line 30; examples; page 2, line 1 to page 6, line 29) show that the subject matter of claims 1-19 does not appear to be novel.

The disclosures in D3 (abstract; examples; claims 1 and 2; column 1, line 1 to column 6, line 20) show that the subject matter of claims 1-19 does not appear to be novel.

The disclosures in D4 (abstract; claims 1-10; page 1, line 1 to page 5, line 21; examples) show that the subject matter of claims 1-19 does not appear to be novel.